

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA,

v.

CONCORD MANAGEMENT AND
CONSULTING LLC,

Defendant.

CRIMINAL NUMBER:

1:18-cr-00032-2-DLF

**CONCORD MANAGEMENT AND CONSULTING LLC'S UNOPPOSED MOTION FOR
EXTENSION OF TIME TO PROVIDE EXPERT NOTICE AND SERVE EXPERT
REPORTS**

Defendant Concord Management and Consulting LLC (“Defendant” or “Concord”), by and through undersigned counsel, respectfully request relief from the current Scheduling Order (ECF No. 214) in the form of an extension of time to provide expert notice and serve expert reports. Undersigned counsel has conferred with counsel for the government who has advised that the government does not object to the relief sought. In support of this motion, Defendant states as follows:

Pursuant to the Court’s Scheduling Order, the government was required to provide expert notice on or before November 1, 2019; Concord is required to provide expert notice and serve expert reports on or before December 2, 2019. ECF No. 214.

On November 1, 2019, the government informed undersigned counsel that it does not intend to introduce expert testimony, but anticipates calling witnesses to testify regarding topics that may be unfamiliar to jurors, including but not limited to topics such as “the Internet, social media websites, and the role of particular government agencies.” **Ex. 1**, Nov. 1, 2019 Letter. The

government's November 1, 2019 letter does not provide any information to allow Concord to prepare to respond to any such testimony. *Id.*

Concord takes issue with the government's position that this anticipated testimony does not constitute expert testimony and attempted to meet and confer with the government on this issue. The government maintained its position that the anticipated testimony would not require expert disclosure. On November 11, 2019, Concord filed a motion to compel the government to comply with Fed. R. Crim. P. 16. ECF No. 241 (Concord's "Motion to Compel"). Pursuant to the Court's November 14, 2019 Minute Order, the government's opposition to Concord's Motion to Compel is due on or before November 25, 2019, and Concord's reply brief is due on or before December 2, 2019—the current deadline for Concord to provide expert notice and serve expert reports.

As noted in the Motion to Compel, Concord believes that the government's anticipated testimony regarding issues that may be unfamiliar to jurors constitutes expert testimony based on specialized knowledge and requires notice under Fed. R. Crim. P. 16(a)(1)(G). Until the Court resolves Concord's Motion to Compel, Concord cannot fairly determine whether it should prepare to introduce its own expert testimony and, if so, prepare the expert disclosures required by Fed. R. Crim. P. 16(a)(1)(G). Accordingly, Concord respectfully requests relief from the current Scheduling Order in the form of an extension of time by which to provide expert notice and serve expert reports.

Concord proposes that in the event the Court grants Concord's Motion to Compel, the deadline by which Concord shall provide expert notice and serve expert reports be set for thirty days following the government's expert notice. Alternatively, in the event the Court denies

Concord's Motion to Compel, the deadline by which Concord shall provide expert notice and serve expert reports be set for thirty days following the Court's order denying the Motion to Compel.

Dated: November 19, 2019

Respectfully submitted,

CONCORD MANAGEMENT AND
CONSULTING LLC

By Counsel

/s/*Eric A. Dubelier*

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Exhibit 1

To Defendant Concord Management and Consulting LLC's
Motion for Extension of Time to Provide Expert Notice and
Serve Expert Reports



U.S. Department of Justice

Jessie K. Liu
United States Attorney

District of Columbia

*Judiciary Center
555 Fourth St., N.W.
Washington, D.C. 20530*

November 1, 2019

Eric Dubelier, Esq.
Katherine Seikaly, Esq.

Re: U.S. v. Concord Management and Consulting, LLC, Case No. 18-CR-32-2 (DLF)

Dear Counsel:

At the trial of the above-captioned matter, the United States does not intend to introduce expert testimony pursuant to Federal Rule of Criminal Procedure 16(a)(1)(G), nor does it intend to introduce evidence pursuant to Rule 404(b) of the Federal Rules of Evidence.

To be clear, the government does anticipate calling witnesses to testify regarding topics that may be unfamiliar to jurors. Examples of such topics include, but are not limited to: the Internet, social media websites, and the role of particular government agencies. It is the government's position that such testimony will be admissible through fact witnesses. In addition, as you are aware, the government has obtained evidence in this case pursuant to legal process served on various electronic communications services providers and remote computing services providers. The government anticipates that a number of exhibits at trial will be derived from this evidence. It is the government position that such evidence will be admissible through the testimony of custodians of records and other fact witnesses. The government will provide its exhibit list on or before January 6, 2020, per the Court's Scheduling Order [ECF No. 214].

Please do not hesitate to contact us if you have any questions about this information.

Sincerely,

/s/

Heather Alpino
Trial Attorney
National Security Division

/s/

Jonathan Kravis
Kathryn Rakoczy
Luke Jones
Assistant U.S. Attorneys

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PROPOSED ORDER

Upon consideration of Defendant Concord Management and Consulting LLC's Unopposed Motion for Extension of Time to Provide Expert Notice and Serve Expert Reports, it is hereby **ORDERED** that the motion is **GRANTED**.

In the event the Court grants Concord's Motion to Compel Compliance with Fed. R. Crim. P. 16 (ECF No. 241), Concord shall provide expert notice and serve expert reports thirty days following the government's expert notice. In the event the Court denies Concord's Motion to Compel Compliance with Fed. R. Crim. P. 16, Concord shall provide expert notice and serve expert reports thirty days following the Court's order denying the Motion to Compel.

SO ORDERED.

Dated: _____

Dabney L. Friedrich
United States District Judge